

BEFORE THE IDAHO BOARD OF TAX APPEALS

BRENT CARLSON,	)	
	)	
Appellant,	)	APPEAL NO. 17-A-1069
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BANNOCK COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**COMMERCIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Bannock County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RPIDA005601. The appeal concerns the 2017 tax year.

This matter came on for hearing October 18, 2017 in Pocatello, Idaho before Board Member David Kinghorn. Appellant Brent Carlson was self-represented. Assessor Jared Stein represented Respondent.

Board Members David Kinghorn, Leland Heinrich and Kenneth Nuhn join in issuing this decision.

**The issue on appeal concerns the market value of commercial land.**

**The decision of the Bannock County Board of Equalization is affirmed.**

FINDINGS OF FACT

The subject parcel’s assessment includes a residence and unimproved commercial land. The assessed value of the residence is \$149,447, and the commercial land is assessed for \$180,000, totaling \$329,447. The commercial land was reappraised for the 2017 tax year. Appellant contends the correct commercial land value is \$103,137. The remaining value components are not challenged by Appellant.

The commercial land consists of 2.71 acres zoned commercial general. The commercial land is located to the rear of the subject parcel and is accessed by a driveway running along the side of the residence. Prior to 2017 and Appellant's combining them, the residence and commercial land were separate parcels for assessment purposes.

According to Appellant, the commercial land is not used commercially, however friends and relatives are permitted to park numerous RV's there and a neighbor also parks construction equipment. Appellant testified there are no charges for the storage use.

Appellant contested the assessment of the 2.71 acres as commercial, contending the land could not be used commercially as the driveway is not wide enough to permit commercial or emergency vehicle traffic. Appellant explained to provide adequate access the residence would need to be removed. Therefore Appellant described the commercial portion as land-locked. As such, Appellant contended none of the subject parcel should be valued as commercial property.

Appellant reported the commercial land assessment increased approximately 272% for 2017, while neighboring properties were mostly assessed for less per acre with some experiencing a smaller percentage increase. Assessed values were provided for a few properties located near the subject parcel. The assessments on the selected land ranged from \$29,492 to \$46,427 per acre. Subject's commercial land assessment reflected an average rate of \$66,420 per acre. Respondent contended Appellant was comparing residential land values to a commercial land value.

Respondent explained the commercial portion of subject was valued as commercial

property as it is zoned for commercial use. The current residential use on subject was reported to be a “non-conforming” use given the property’s commercial zoning.

Respondent provided information on four (4) commercial land sales to support the value of subject’s commercial land. Three (3) of the sales took place in the last three (3) years. The fourth sale was located next door to subject and sold in 2010. Due to the old sale date Respondent afforded the sale minimal weight in its analysis. The four (4) sale properties indicated price rates from \$69,444 to \$103,896 per acre. Respondent acknowledged most of the sale properties were superior to subject’s commercial land, however pointed out the subject land was valued at a lessor rate. Appellant argued Respondent’s sale properties were superior to subject in terms of location and access and therefore not comparable.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2016 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands

between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

There are three (3) generally accepted appraisal methods for determining market value; the cost approach, the income approach and the sales comparison approach. In this case Respondent relied on a consideration of multiple commercial land sales in determining the value of the subject parcel's commercial land component. This was generally consistent with the sales comparison approach to value. Appellant focused on a consideration of assessed values. Referenced were several properties in subject's neighborhood and their associated assessments. The assessment comparables or comparisons all involved residential land whereas this appeal centers on the market value contribution of subject's commercial land. This commercial land was not being used to support a residence but was used for the storage of numerous small and large vehicles and some equipment. Of more concern than the references to residential property was that the comparison did not involve actual sales. Appellant's consideration of value was not a recognized appraisal practice for estimating market value.

On the other hand, Respondent's value evidence involved a consideration of actual sales. The primary difference between the subject parcel and most of the comparable sales was the generally superior locations of the sale properties. Also, the sale properties did not have the same access situation as subject. Respondent did not adjust for differences in its market approach, however it noted subject's commercial land value rate was lower than that indicated by all the sales in record. The Board found the comparable

sales information in record did present a reasonable support for subject's commercial land assessment.

Idaho Code § 63-511 places the burden on Appellant to demonstrate error in subject's assessed value by a preponderance of the evidence. Given the record in this case, we did not find the burden of proof satisfied. Appellant's approach was not an accepted appraisal practice. Respondent's analysis yielded a value conclusion which was supported by the sales information in record.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bannock County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 2<sup>nd</sup> day of January, 2018.